

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

v.

97-cr-68-bbc

LAVELLE SPAN,

Defendant.

In an order entered on April 8, 2010, I denied defendant Lavelle Span's motion pursuant to 18 U.S.C. § 3582 and Amendment 706 and 711 to the Sentencing Guidelines because defendant is not eligible for a sentence reduction under these provisions. His sentence was determined by his status as a career offender and not by drug quantity. Defendant then filed a motion for reconsideration, which was denied on April 26, 2010. Now defendant has filed a notice of appeal. He has not paid the \$455 fee for filing his notice of appeal, which is required if he is to take an appeal from the denial of a § 3582 motion. Therefore, I construe defendant's notice as including a request for leave to proceed in forma pauperis on appeal pursuant to 28 U.S.C. § 1915.

Because defendant wants to raise a legally frivolous argument on appeal, I must certify

that his appeal is not taken in good faith.

Pursuant to Fed. R. App. P. 24, defendant has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. His motion must be accompanied by an affidavit as described in the first paragraph of Fed. R. App. P. 24(a) and a copy of this order.

ORDER

IT IS ORDERED that defendant Lavelle Span's request for leave to proceed in forma pauperis on appeal from this court's orders of April 8, 2010 and April 26, 2010 is DENIED.

I certify that defendant's appeal is not taken in good faith.

Entered this 13th day of May, 2010.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge